



PATENT

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANT: Tom Van Horn, *et. al.*
APPLICATION NO.: 09/863,801
FILING DATE: May 22, 2001
TITLE: ATTAINING PRODUCT INVENTORY GROUPINGS
FOR SALES IN A GROUP-BUYING ENVIRONMENT
EXAMINER: Elaine L. Gort
GROUP ART UNIT: 3627
ATTY. DKT. NO.: 22930-06067

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 3/21/05 By: Colleen V. Chien
Colleen V. Chien, Reg. No. 55,062

COMMISSIONER FOR PATENTS
P.O. BOX 1450
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PETITION FOR SUSPENSION OF RULES PURSUANT TO 37 CFR § 1.183

Sir:

Applicants would like to respectfully request a partial to full refund of the four-month extension fee of \$1,530 and the \$130 petition paid by Applicants because the payment of these fees has been necessitated wholly by Examiner's undue delay. Applicants respectfully submit that, at present, the circumstances demand that, under 37 CFR § 1.183, the interests of justice, the extension and petition fees be waived for Applicants.

The facts are as follows. On September 15, 2004, Applicants' representatives filed a Notice of Appeal, signaling Applicants intention to appeal this case. On November 5, 2004, Applicants filed Amendment B and made minor changes to two claims of the present application. Applicants submit that these changes, represented below, were made in accordance with 37 CFR §§ 1.116 and 41.33(a), which authorize the making of amendments after the filing of a Notice of Appeal in order to put them in better condition for consideration on appeal:

1. A method for sourcing a featured item for an on-line group-buying sale, comprising:

- communicating to a supplier a featured item quantity and a featured item time reservation;
- receiving the supplier's consent to reserve the featured item quantity for the ~~negotiated~~ featured item time reservation for sale in the on-line group-buying sale;
- conducting an on-line group-buying sale for the featured item during the featured item time reservation, selling at least a portion of the featured item quantity to one or more buyers; and
- supplying the featured items sold in the on-line group-buying sale to one or more buyers by instructing the supplier to provide the items to one or more buyers.

6. A method for sourcing a featured item for an on-line group-buying sale, comprising:

- receiving from a seller a featured item quantity and a featured item time reservation;
- negotiating with the seller to determine a featured item quantity and a featured item time reservation;
- executing a binding agreement with the seller regarding the featured item quantity and the featured item time reservation, wherein the binding agreement requires ~~the seller to reserve~~ reservation of the featured item quantity for the featured item time ~~reservation~~ for sale in the on-line group buying sale;
- receiving a confirmation of the sale of a featured item in an on-line group-buying sale;
- and

supplying a featured item sold during the on-line group-buying sale responsive to instructions from the seller.

Applicants then filed the appeal brief in this case within the statutory grace period on November 10, 2004.

On February 8, 2005, *over four months after Amendment B was submitted*, Examiner issued an Advisory Action stating that she declined to enter the proposed amendments because they required further searching. Applicants disagreed wholly with this assertion, and Applicants' representative discussed the issue with Supervisory Patent Examiner Robert Olszewski. During this conversation, Examiner Olszewski expressed to Applicants' representative that the amendments probably should have been entered, but that petitioning for correction of Examiner's failure would be risky because it would risk the patent application abandoning before the petition was heard.

In accordance with Examiner Olszewski's advice, Applicant re-filed the Appeal brief based on the unamended claims on March 21, 2005, and paid a four-month extension fee of \$1,530. In the present petition, Applicants are asking for a partial or full refund of this extension fee, as well as the fee for the present petition of \$130. The basis of this request for a refund is that this delay is due primarily to Examiner's failure to promptly notify Applicants of Examiner's decision to not enter the claim amendments of Amendment B. Had the Examiner not waited four months to notify Applicants of this decision, Applicants could have re-filed the appeal brief with minimal if any need for an extension fee. However, as it is, the Applicants have had to spend sums on the attorney time in re-filing the appeal, preparing this petition, and on the extension and

petition fees. Applicants request a partial to full refund of these fees in accordance with CFR §1.183 as required by the interests of justice.

Respectfully submitted,
TOM VAN HORN, ET. AL.

Dated: 3/21/05

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